



<b>TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT</b>	Application No.	10/606,010
	Filing Date	06/24/2003
	First Named Inventor	Lawless
	Title	Reflectometry system with compensation for specimen holder topography and with lock-rejection of system noise
	Examiner Name	B. Choobin
	Group Art Unit	2625
	Attorney Docket No.	A-65430-2/DJB

CERTIFICATE OF MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service with Sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:	
	MARCH 22, 2005
Typed or printed name	MARIA CIGANOVICH
Signature	<i>Maria Ciganovich</i>

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

EY Laboratories, Inc. is the owner of the entire right, title and interest in the instant application, as evidenced by an Assignment of the parent application serial number 09/610,667, filed 07/05/2000, now Patent No. 6,584,217, recorded in the U.S. Patent and Trademark Office on 04/21/2003, at Reel/Frame 013972/0974.

The owner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior patent No. 6,584,217. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of

said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;

is held unenforceable;

is found invalid by a court of competent jurisdiction;

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

has all claims canceled by a reexamination certificate;

is reissued; or

is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

1 The undersigned is empowered to act on behalf of the owner.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 24,774

Terminal disclaimer fee under 37 CFR 1.20(d) is included.

The Director is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extension of time or additional claims, and/or credit any overpayment to Deposit Account No. 50-2319 (Order No. 468503-217).

Respectfully submitted,

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*Dan J. Brezner*

Date March 22, 2005